UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 1 7 2011

REPLY TO THE ATTENTION OF:

E-19J

Danielle Block
Wisconsin Department of Transportation
US 41 Brown County Project Office
1940 West Mason Street
Green Bay, Wisconsin 54303

Re: **Final Environmental Impact Statement, US 41, Memorial Drive to County M, Brown County, Wisconsin - CEQ #20110234**

Dear Ms. Block:

The U.S. Environmental Protection Agency has reviewed the final environmental impact statement (EIS) for the above-mentioned project. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508) and Section 309 of the Clean Air Act.

The proposed action is to reconstruct US 41 from Memorial Drive to County M/Lineville Road in Brown County, Wisconsin. Improvements include providing additional traffic capacity on US 41 and reconstructing the interchanges at US 141/Velp Avenue, I-43, and County M. On November 17, 2010, EPA provided concurrences for the purpose and need (Concurrence Point 1) and the alternatives carried forward (Concurrence Point 2).

EPA provided comments on the Draft EIS on March 23, 2011. We had concerns regarding impacts to aquatic resources (wetlands, streams, failure to identify connected actions, and water quality), indirect traffic impacts, aesthetics, and impacts to threatened and endangered species. On April 22, 2011, Wisconsin Department of Transportation (WisDOT) and Federal Highway Administration (FHWA) identified Alternative E (US 41 expansion with full reconfiguration of I-43/US 41 interchange) as the preferred alternative. EPA concurred on May 24, 2011.

Since the Draft EIS, the following changes or additions have been made to the preferred alternative:

- The project limits at County Line M have been extended further north through the intersection, which will result in an additional 2.3 acres of wetland impacts.
- The proposed relocation of Beaver Dam Creek has been re-aligned to allow for a larger

stormwater detention pond.
- The utility corridors have been slightly revised to reduce wetland impacts.
- Construction and maintenance roads have been identified, which will result in additional wetlands impacts.
- The 5-legged roundabout and frontage road at US 141/Velp Avenue interchange ramp terminal west of US 41 were removed from consideration, which reduced wetland impacts by 1.1 acres.

Based on our review of the Final EIS, EPA commends WisDOT and FHWA for addressing our concerns on the adequacy of the wetland maps and qualitative information (particularly Table 3-12), indirect impacts analysis from the elimination of access to I-43 from US 141/Velp Avenue via US 41, potential indirect impacts to threatened and endangered species, and the adequacy of information pertaining to the mitigation banks, particularly given their likelihood of success.

Enclosed you will find the remainder of our concerns. We continue to recommend that the utility corridors be included in the total impacts assessment. It is unclear whether or not the utility companies will even need to comply with NEPA. We maintain that any direct wetlands impacts should be included in the total wetland mitigation calculations since the relocation of the utilities are clearly a connected action. Finally, we ask that certain mitigation measures be committed to in the Record of Decision (ROD). Please see the enclosed detailed comments for further discussion.

Please send a copy of the ROD once it is signed. Thank you for the opportunity to provide comments on this project. Should you have any questions, please do not hesitate to contact me or Elizabeth Poole of my staff at (312) 353-2087 or poole.elizabeth@epa.gov.

Sincerely,

Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Cc: Tracey McKenney, Federal Highway Administration
Charlie Webb, CH2M Hill

Enclosures (1)

U.S. Environmental Protection Agency Comments on US 41, Memorial Drive to County M, Brown County, Wisconsin, Final Environmental Impact Statement, CEQ #20110234

Utility Adjustments

We continue to have concerns regarding the inclusion of the utility adjustments into the NEPA document as a connected action. Pages 3-21 and 3-62 state that once the final utility adjustments have been determined "GBMSD [Green Bay Metropolitan Sewer District] and ATC [American Transmission Company] will be responsible for the NEPA compliance, including environmental documentation and obtaining any permits for wetlands impacts due to their utility adjustments." EPA questions whether or not these entities are responsible for NEPA compliance, as this action would probably fall under U.S. Army Corps of Engineers' (USACE) nationwide permit program. While we understand that the ultimate siting decision rests with the utility companies, WisDOT and FHWA are not relieved of their responsibility to analyze the associated wetlands impacts, as the utility adjustments are clearly connected actions to the highway project under NEPA. The resultant wetland impacts should contribute to the wetland mitigation calculations.

Aquatic Resources

While EPA understands that many project elements cannot be determined until the final design phase, we continue to recommend the following mitigation measures be committed to in the ROD. Because the project is within the Great Lakes coastal zone, we strongly urge FHWA and WisDOT commit to acting on the following:

- During the Draft EIS, EPA recommended the installation of a 50-foot forested buffer along Beaver Dam Creek, between US 41 and the Island Court and Long Grove/Rosewood Street neighborhoods. A buffer will not only enhance stream function and water quality, but will also restore neighborhood aesthetics.
- EPA recommends the use of single-cell, open bottom, three-sided or arched culverts that span the width of the channel and its floodplain. If this is not feasible and multi-cell culverts are pursued, they should be open bottomed, three-sided or arched culverts, and one culvert alone should span the width of the channel. If four-sided, box-culverts are pursued, they should be imbedded into the stream bed at least one foot below the natural stream invert. These strategies will provide for natural creek bottoms and continuous aquatic habitat. Further, page 3-39 of the Final EIS states, "final structure types for the Duck Creek and Beaver Dam Creek crossing will be determined during the project's design phase..." and "a new four-cell box culvert will be constructed and will have approximately the same dimensions as the existing box culvert except for its length, which will be increased...to accommodate the wider roadway." These two statements are contradictory and should be clarified.
- During the Draft EIS, EPA recommended exploration of onsite wetland mitigation, particularly in the areas where existing loop ramps and other structures will be removed. Since the project area is within the Great Lakes coastal zone and adjacent to publicly managed lands, EPA believes onsite restoration or enhancement projects are reasonable and viable options.

Construction Impacts

In the Draft EIS, EPA recommended more details regarding construction impacts to wetlands be included in the Final EIS. We are pleased to see more details regarding impacts and mitigation measures outlined. The inclusion of this information fully outlines the project's impacts. We recommend the following measures to further minimize impacts to wetlands during construction be committed to in the ROD:

- Construct during winter, if feasible.
- Minimize width of temporary access roads for construction access.
- Use easily-removed materials for construction of temporary access roads (e.g., swamp/timber mats) in lieu of materials that sink (e.g., stone, rip-rap, wood chips).
- Use swamp/timber mats or other alternative matting to distribute the weight of the construction equipment. This will minimize soil rutting and compaction.
- Use vehicles and construction equipment with wider-tired or rubberized tracks or use of low ground pressure equipment to further minimize impacts during construction access and staging.
- Use long-reach excavators, where appropriate, to avoid driving, traversing, or staging in wetlands.
- Place mats under construction equipment to contain any spills or leaks.
- Construct the relocated portion of Beaver Dam Creek in the dry. The new length should be excavated, graded, stabilized with erosion control blankets, seeded, and vegetated before flow is diverted into the relocated channel.